GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. Patimi Kameswari, D/o Srinivasulu, SGT, MPP School (Main), Chillakuru (V&M), SPSR Nellore District against the Proceedings Rc.No.C5/1583/2013, dated 29.12.2013 of the District Collector, SPSR Nellore District - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 26 Dated: 01-03-2016

Read the following:

1. Proceedings of the District Collector, SPSR Nellore District Rc.No.C5/1583/2013, dated 29.12.2013.
2. Appeal Petition filed by Smt. Patimi Kameswari, D/o Srinivasulu, SGT, MPP School (Main), Chillakuru (V&M), SPSR Nellore District before M(TW), No.83/M(TW)/2014, dt. 15.02.2014.
3. Govt.Memo No.2463/CV.2/2014, S.W(CV.2) Department, Dated 28.04.2014.
4. Order of the Hon'ble High Court of A.P., in W.P. No. 30961/2015, dated 24.10.2014.
5. From the District Collector, SPSR Nellore, Rc.C5(M)/1583/2013, dated 26.10.2014 & 11.02.2015.
6. Govt. Memo No.2463/CV.2/2014, T.W(CV.2) Department, dated 08.05.2015 & 22.05.2015.

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ORDER:

In the reference 1st read above the District Collector, SPSR Nellore District has issued orders canceling ST- Yanadi Caste Certificate obtained from the then Tahsildar, Gudur Mandal, SPSR Nellore District on 1992 by Smt. Patimi Kameswari D/o Srinivasulu, SPSR Nellore District.

2. In the reference 2nd read above, Smt. Patimi Kameswari D/o Srinivasulu, SPSR Nellore District has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, SPSR Nellore District. After examining the said Appeal Petition, Government have admitted the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, SPSR Nellore District in the reference 3rd read above.

3. Smt. Patimi Kameswari D/o Srinivasulu, SPSR Nellore District has filed W.P. No. 30961/2015, before the Hon'ble High Court, against said proceedings of the District Collector, SPSR Nellore District. In the reference 4th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP, on 24.10.2014 has directed to deal with the Appeal said to have been preferred by the petitioner on 13.02.2014 as expeditiously as is possible, preferably within a period of two months from the date of receipt of a copy of the order and it shall also be open to the Government to deal with the interlocutory relief prayed for by the petitioner and pass appropriate orders thereon as expeditiously as is possible, upon production of this order by the petitioner. But due to several administrative difficulties the matter could not be disposed before the said date however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

[P.T.O]

4. In the reference 5th read above, the District Collector, SPSR Nellore District has furnished the Parawise remarks and connected records on the said Appeal Petition filed by Smt. Patimi Kameswari D/o Srinivasulu, SPSR Nellore District.

5. The said Appeal Petition has been posted for hearing on 23.05.2015 & 13.06.2015 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th read above.

6. During the hearings after heard both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the appellant / the parawise remarks submitted by the District Collector, SPSR Nellore District and proceedings of the District Collector, SPSR Nellore District dated 29.12.2013, it is observed that the Appellant has claimed that her father belongs to ST-Yanadi Community and Mother belongs to Balija(OC) community and in her School Registers based on her father's caste, her caste was recorded as ST-Yanadi and the same is carried till today. As observed from the parawise remarks of the District Collector, SPSR Nellore, that all the members of Appellant have married the persons who belonged to forward caste. The Appellant is not in the fold of ST-Yanadi community and she was not accepted by the tribal society. Further, she is not following the traditions and customs of the Yanadi community.

7. Further it is observed that as per G.O.Ms.No.371 Employment and Social Welfare (B2) Department dated 13.04.1976 in Annexure-II at para 4 has stated that "in the case of marriage between a tribal with a non-tribal the main factor for consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the society then their children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, a circumstance may be that Scheduled Tribe woman may have children from marriage with a non- Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe community accept them and treat them as members of their own community."

8. Further it is also observed that the Appellant has not produced any relevant documents/material in support of her "ST-Yanadi community" claim before the Appellate Authority at the time of hearing except school record, which is generated based on declaration given by the parents. Hence it can be held that mere school certificates cannot be accepted as reflection of true caste of person. Further there is no evidence that the father of the Appellant belongs to ST-Yanadi Community and the Appellant failed to produce any evidence even though lot of opportunity was given to her even by the Government. Further the Appellant have failed to prove that her father belongs to ST-Yanadi Community but admits that her mother belongs to Balija(OC) community. The burden on the Appellant U/S 6 is not discharged. Hence Government have examined the entire record & material relevant to the instant case and it is decided that the Appellant obtained Caste Certificate fraudulently and the Appellant has no iota of evidence to show that her father belongs to ST-Yanadi Community. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity found either in the order of the learned DLSC or the District Collector, SPSR Nellore.

9. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the appeal petition filed by Smt. Patimi Kameswari D/o Srinivasulu, SPSR Nellore District,does not deserve any interference. Hence, Proceedings of

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the District Collector, SPSR Nellore District issued vide Rc.No.C5/1583/2013, dated 29.12.2013, is hereby upheld and the Appeal Petition filed by Smt. Patimi Kameswari D/o Srinivasulu, is hereby dismissed and the Certificate issued by the then Tahsildar, Gudur Mandal, SPSR Nellore District deemed to be cancelled.

10. Consequently, the District Collector, SPSR Nellore District shall take necessary action in the matter.

11. The records (containing Rc.No.C5/1583/2013, dated 29.12.2013, pages 01 to 72 cf) received from District Collector, SPSR Nellore through in the reference 5th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S. SOLOMON AROKIARAJ
SPECIAL CHIEF SECRETARY TO GOVERNMENT(FAC)

To
The District Collectyor, SPSR Nellore.(w.e)
(with original records)

Smt. Patimi Kameswari,
D/o Srinivasulu,
SGT, MPP School (Main), Chillakuru (V&M),
SPSR Nellore District.

M/s. S.Peddaiah, Advocate,
Plot No. A53, Samskruthi Apartments, Road No. 5
Balaji Nagar, Kothapeta,
Hyderabad – 35.

Copy to:
The Director, TCR & TI, A.P., Hyderabad.
The P.S. to Hon'ble Minister(SWE&TWE)
The P.S. to Special Chief Secretary to Government(FAC)(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER